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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2010-70

13 **KAREN MORTIBOY IAQUINTO**
2840 Oak Creek Drive
San Ramon, California 94583

ACCUSATION

14 **Registered Nurse License No. 271519**

15 Respondent.

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18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
22 of Consumer Affairs.

23 2. On or about August 31, 1976, the Board of Registered Nursing issued Registered
24 Nurse License Number 271519 to Karen Mortiboy Iaquinto (Respondent). The Registered Nurse
25 License was in full force and effect at all times relevant to the charges brought herein and will
26 expire on October 31, 2009, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

STATUTORY PROVISIONS

4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

6. Section 2761 of the Code states, in pertinent part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct

. . . .

"(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof. . . ."

7. Section 2762 of the Code states, in pertinent part:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

"(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with

1 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as
2 defined in Section 4022.

3 “(b) Use any controlled substance as defined in Division 10 (commencing with Section
4 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in
5 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to
6 himself or herself, any other person, or the public or to the extent that such use impairs his or her
7 ability to conduct with safety to the public the practice authorized by his or her license.

8 “(c) Be convicted of a criminal offense involving the prescription, consumption, or
9 self-administration of any of the substances described in subdivisions (a) and (b) of this section,
10 or the possession of, or falsification of a record pertaining to, the substances described in
11 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
12 thereof.

13 “(d) Be committed or confined by a court of competent jurisdiction for intemperate use of
14 or addiction to the use of any of the substances described in subdivisions (a) and (b) of this
15 section, in which event the court order of commitment or confinement is prima facie evidence of
16 such commitment or confinement. . . .”

17 8. Section 490 of the Code provides, in pertinent part, that a board may suspend or
18 revoke a license on the ground that the licensee has been convicted of a crime substantially
19 related to the qualifications, functions, or duties of the business or profession for which the
20 license was issued.

21 9. Title 16, California Code of Regulations, section 1444 states, in pertinent part:

22 “A conviction or act shall be considered to be substantially related to the qualifications,
23 functions or duties of a registered nurse if to a substantial degree it evidences the present or
24 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
25 safety, or welfare. . . .”

26 10. Section 493 of the Code states:

27 “Notwithstanding any other provision of law, in a proceeding conducted by a board within
28 the department pursuant to law to deny an application for a license or to suspend or revoke a

1 license or otherwise take disciplinary action against a person who holds a license, upon the
2 ground that the applicant or the licensee has been convicted of a crime substantially related to the
3 qualifications, functions, and duties of the licensee in question, the record of conviction of the
4 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,
5 and the board may inquire into the circumstances surrounding the commission of the crime in
6 order to fix the degree of discipline or to determine if the conviction is substantially related to the
7 qualifications, functions, and duties of the licensee in question. . . .”

8 11. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
9 administrative law judge to direct a licensee found to have committed a violation or violations of
10 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
11 enforcement of the case.

12 DRUGS

13 12. Lorazepam (Ativan) is a Schedule IV controlled substance, as designated by Health
14 and Safety Code section 11057(d)(16), and a dangerous drug pursuant to Business and
15 Professions Code section 4022 in that it can be lawfully dispensed only by prescription.

16 13. Hydromorphone (Dilaudid) is a Schedule II controlled substance, as designated by
17 Health and Safety Code section 11055(b)(1)(K), and a dangerous drug pursuant to Business and
18 Professions Code section 4022 in that it can be lawfully dispensed only by prescription.

19 FIRST CAUSE FOR DISCIPLINE

20 (Conviction of Substantially Related Crimes)

21 14. Respondent is subject to disciplinary action under Code sections 2761(f) and 490 in
22 that she was convicted of crimes substantially related to the duties, qualifications, and functions
23 of a registered nurse, as defined in Title 16, California Code of Regulations, section 1444. The
24 circumstances are set forth in paragraphs 15 and 16, below.

25 15. On or about February 20, 2008, in *People v. Karen Mortiboy Iaquinto*, Contra Costa
26 County Superior Court Case No. 130339-5, Respondent was convicted by a plea of no contest of
27 violating Vehicle Code section 23152(b). Imposition of sentence was suspended and Respondent
28 was sentenced to serve 180 days in the county jail and placed on four years of probation under

1 terms which included, but were not limited to, the completion of Post Conviction Drinking
2 Driver's Program and 35 hours of community service. The circumstances underlying the offense
3 are set forth as follows:

4 On or about February 14, 2007 at approximately 11:30 p.m., Respondent was stopped by a
5 California Highway Patrol (CHP) Officer on Interstate 680 in Danville, California, for driving
6 erratically, straddling lane lines, and weaving. Upon contacting her, the officer noted that
7 Respondent displayed objective signs of intoxication and performed poorly on the field sobriety
8 tests. A blood test later determined that Respondent's blood alcohol concentration was 0.16%.
9 Based upon her conduct, Respondent was charged with a violation of Vehicle Code sections
10 23152(a) (Driving Under the Influence of Alcohol or Drugs) and 23152(b) (Driving While
11 Having a 0.08% or Higher Blood Alcohol), an enhancement pursuant to Vehicle Code section
12 23578 (Driving Under the Influence With Blood Alcohol Over 0.15%), and a violation of Penal
13 Code section 148(a)(1) (Resisting, Obstructing, or Delaying a Peace Officer), all misdemeanors.

14 16. On or about February 20, 2008, in *People v. Karen M. Iaquinto*, Contra Costa County
15 Superior Court Case No. 134573-5, Respondent was convicted by a plea of no contest of violating
16 Vehicle Code section 23152(b). Imposition of sentence was suspended and Respondent was
17 sentenced to serve 90 days in a residential treatment program and placed on four years of
18 probation under terms which included, but were not limited to, the completion of Post Conviction
19 Drinking Driver's Program and 35 hours of community service. The circumstances underlying
20 the offense are set forth as follows:

21 On or about May 23, 2007 at approximately 1:43 p.m., Respondent drove head on into
22 oncoming traffic on Davona Drive in San Ramon, California, hitting a minivan occupied by a
23 mother and her 10 year old daughter. Respondent appeared to have been speeding at the time and
24 her blood alcohol concentration was later determined to be 0.18%. Respondent suffered a
25 dislocated hip and severe bruising due to the accident, and the occupants of the minivan had to be
26 taken to the hospital by ambulance. Based upon her conduct, Respondent was charged with a
27 violation of Vehicle Code sections 23152(a), 23152(b), 14601.5 (Driving With Knowledge of
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1 Suspension, Revocation, or Restriction of Driving Privilege), and an enhancement pursuant to
2 Vehicle Code section 23578, all misdemeanors.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Unprofessional Conduct: Conviction of Crimes Involving Use of Alcohol)**

5 17. Respondent is subject to disciplinary action under Code sections 2761(a) and 2762(c)
6 in that she was convicted of crimes involving the consumption of alcohol. The circumstances are
7 set forth in paragraphs 15 and 16, above.

8 **THIRD CAUSE FOR DISCIPLINE**

9 **(Unprofessional Conduct: Court Confinement for Intemperate Use of Alcohol)**

10 18. Respondent is subject to disciplinary action under Code sections 2761(a) and 2762(d)
11 in that she was committed by Contra Costa County Superior Court to a residential treatment
12 program for her intemperate use of alcohol. The circumstances are set forth in paragraph 16,
13 above.

14 **FOURTH CAUSE FOR DISCIPLINE**

15 **(Unprofessional Conduct: Unlawful Obtainment, Possession, and**
16 **Administration of Controlled Substances)**

17 19. Respondent is subject to disciplinary action under Code sections 2761(a) and 2762(a)
18 in that she engaged in unprofessional conduct when she unlawfully obtained, possessed, and self-
19 administered controlled substances. The circumstances are set forth in paragraph 20, below.

20 20. On or about August 25, 2008, when confronted with photographs of controlled
21 substances found in her bedroom nightstand, Respondent admitted to California Division of
22 Investigation Senior Investigator Paul Rowe that during the period between February 26, 2007
23 and May 18, 2007, while employed as a nurse at the San Ramon Regional Medical Center, she
24 brought home Ativan that she had forgotten to waste and injected it on approximately five
25 occasions. Respondent also admitted taking, and self-administering, Dilaudid from the hospital.

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1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct: Use of Alcohol and**
3 **Controlled Substances in a Dangerous Manner)**

4 21. Respondent is subject to disciplinary action under Code sections 2761(a) and 2762(b)
5 in that she engaged in unprofessional conduct by using alcohol and controlled substances in a
6 dangerous manner. The circumstances are set forth in paragraphs 15, 16, and 20 above.

7 **DISCIPLINE CONSIDERATIONS**

8 22. To determine the degree of discipline, if any, to be imposed on Respondent,
9 Complainant alleges that on or about October 2, 2007, Respondent was admitted into the
10 California Board of Registered Nursing Diversion Program (Diversion Program). As a condition
11 of admission, Respondent agreed to abstain from the use of alcohol, to submit to random body
12 fluid screening tests and cooperate in the collection of such samples, and to participate in
13 individual and group therapy, among other terms. On or about February 15, 2008, based upon
14 Respondent's positive body fluid screening tests,¹ her failure on several occasions to call the body
15 fluid screening company as required,² and her disruptive conduct while in a nurse support group,
16 Respondent was terminated from the Diversion Program for failure to comply with the provisions
17 of the rehabilitation plan and for being a public safety risk.

18 **PRAYER**

19 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
20 and that following the hearing, the Board of Registered Nursing issue a decision:

21 1. Revoking or suspending Registered Nurse License Number 271519, issued to Karen
22 Mortiboy Iaquinto;

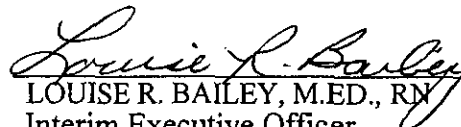
23 2. Ordering Karen Mortiboy Iaquinto to pay the Board of Registered Nursing the
24 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
25 Professions Code section 125.3; and

26 ¹ Respondent's random body fluid screenings tested positive for alcohol on or about
27 October 27, 2007 and December 4, 2007.

28 ² Respondent failed to call the screening company on or about November 21, 2007,
November 22, 2007, November 29, 2007, and December 9, 2007.

3. Taking such other and further action as deemed necessary and proper.

DATED: 8/11/09


LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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